

**MINUTES OF THE NOVEMBER 5, 2013 MEETING OF  
THE DATA SECURITY AND PRIVACY COMMITTEE OF THE ILLINOIS  
HEALTH INFORMATION EXCHANGE AUTHORITY**

The Data Security and Privacy Committee (“Committee”) of the Illinois Health Information Exchange Authority (“Authority”) Board of Directors, pursuant to notice duly given, held a telephonic meeting at 9:00 a.m. November 5, 2013, at the offices of the Illinois Office of Health Information Technology (“OHIT”), 100 West Randolph Road, Suite 2-201, in Chicago, IL, with telephone connectivity.

<u>Appointed Committee Members Present:</u> Dr. Nicholas Panomitros (in person) Ms. Elissa Bassler (phone) Mr. David Holland (phone) Ms. Patricia Merryweather (phone) Mr. Harry Rhodes (phone) Mr. Mick Scott (phone) Mr. William Spence (phone)	<u>Staff Present:</u> Krysta Heaney Elizabeth LaRocca Kerri McBride
<u>Members of Public Present or on Phone:</u> Ms. Amanda Attaway Mr. Alan Berkelhamer Ms. Lorie Chaiten Ms. Sherri Devito Ms. Kristen Dome Ms. Ruth Edwards Ms. Deb Gory Ms. Laurel Fleming Ms. Marcia Matthias Mr. David Miller Ms. Maria Pekar Mr. Morris Rang Ms. Lisa Saran Mr. Michael Short Ms. Meryl Sosa Ms. Crystal Vandeventer	

*Call to Order and Roll Call*

Ms. Elizabeth LaRocca, Assistant Secretary to the Authority, confirmed the presence of the Members of the Committee indicated above. The ability of those participating by phone to hear clearly was confirmed.

It was acknowledged that the meeting notice and agenda were posted in advance of the meeting in accordance with the Illinois Open Meetings Act.

### *Review of Recommendations*

Participants discussed the opt-out procedure, in which individuals would have to specifically opt-out with each provider that the individual wants to restrict from contributing data to the ILHIE. For a patient to opt-back in, he or she would need to do so with each specific provider. There was a suggestion that the language in the ILHIE Notice and forms needed to be revised to provide further clarity that participation in the ILHIE by a provider may not be limited to a specific provider within a health care system but rather could be at the system level. There was concern expressed that once an individual opts-out of the ILHIE, that individual cannot give a new provider access to his or her records without going back through every other provider to opt-in. There was a suggestion that there be a global mechanism to allow an individual to reverse prior elections. There was further discussion that an individual be able to request a list of providers for which they had previously opted out. However, Ms. McBride noted that the issue with a global opt in is that specially protected information could potentially be exposed without the patient's specific consent.

There was further discussion that it might be useful to make the names of the providers with which the patient opted out available to other querying providers in the system. However, because the provider's identity is protected health information such a list could reveal the existence of specially protected health information in certain circumstances.

Pertaining to the Break the Glass recommendation, the discussion considered a hypothetical in which a patient in the emergency room wanted to share information and the emergency room treating provider would break the glass and be granted access to only the patient's demographic information and what providers the patient had seen. Ms. McBride explained that the concern the hypothetical posed is that if the ILHIE would be unable to distinguish which providers a person had individually opted out from and which the provider had opted out the patient because of specially protected information in the patient's record held by that provider. There was discussion as to how it could be valuable to clinical decision-making to have this information available in an emergency situation.

The group discussed the immunity clause in the ILHIE Authority's enabling legislation (20 ILCS 3860/40). The immunity clause protects any health care provider who relies in good faith upon information provided through the ILHIE in his, her or its treatment of a patient and provides immunity from criminal or civil liability arising from any damages caused by such good faith reliance. The immunity clause appears to be unique to the ILHIE.

Ms. McBride and Ms. LaRocca established that there was not a quorum at the meeting, but that the proposed changes could likely be moved forward at the Thursday, November 7, 2013 meeting of the Committee.

Ms. LaRocca then moved the discussion to the provision of the annual ILHIE Notice; suggesting it could be provided via mail, a portal, or another mechanism to remind the patient about his or her opt-out/opt-in choices. Ms. LaRocca also mentioned that the patient could be asked about if they wanted to receive additional information about EHR Connect. The group discussed the possibility that if each provider is giving Notice, the patient may experience Notice fatigue. There was also concern about undue burdens on providers in giving annual Notice. The group came to a loose consensus regarding the recommendation that providers give annual ILHIE Notice, a description of what it means and a statement that the patient can opt out if he or she wants. There will also be information available on the web, as well as the ILHIE Signage.

A few additional issues were raised including a request for clarification on the confidentiality of therapist's notes and the suggestion that perhaps the only reason not to give the ILHIE Notice to a patient at the first encounter would be in the event of a medical emergency.

Another participant reiterated that there was disagreement with the current way the patient choice and meaningful disclosure policy treats minors.

After these brief comments, the meeting came to a close, with the plan to meet again on Thursday, Nov. 7<sup>th</sup>, 2013.

#### *Public Comment*

There were no comments offered from the general public.

#### *Adjournment*

The meeting was adjourned at 10:30 a.m.